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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

THE PEOPLE,

Plaintiff and Respondent,

v.

ROSHONDA ENETTE LAMAR,

Defendant and Appellant.

E049476

(Super.Ct.No. FSB801734)

OPINION

APPEAL from the Superior Court of San Bernardino County. Annemarie G.  
Pace, Judge. Affirmed.

Victoria Matthews, under appointment by the Court of Appeal, for Defendant and  
Appellant.

No appearance by Plaintiff and Respondent.

## **FACTUAL AND PROCEDURAL HISTORY<sup>1</sup>**

On April 21, 2008, defendant Roshonda Enette Lamar and her landlord engaged in an argument regarding her failure to pay rent. Defendant lived in a backhouse on property owned by her landlord; her landlord lived in another home at the front of the property. Defendant threatened to burn her landlord's house down. Not long after, the landlord observed smoke and flames arising from the backhouse. The fire spread to the front house, damaged two neighboring residences, and burned a vehicle parked next door. An arson investigator determined the fire was intentionally set.

The backhouse incurred extensive fire damage, burning all the way down to the carpet in the living room and dining room. The landlord's residence was also badly damaged and deemed uninhabitable. The arson investigator estimated the amount of damage as \$250,000 for the landlord's building and contents. The vehicle parked next door sustained heavy burn and heat damage. The investigator estimated the amount of damage as to one of the neighboring residences as \$20,000 for both real and personal property loss. As to the home of the second neighboring residence, the investigator estimated a loss of \$10,000 regarding both real and personal property losses.

The People charged defendant with one count of arson of an inhabited structure (Pen. Code, § 451, subd. (b)).<sup>2</sup> On November 3, 2008, defendant pled guilty to an interlineated count of unlawful burning of a structure (count 2—§ 452, subd. (b)) and

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<sup>1</sup> The parties stipulated that the preliminary hearing transcript would provide the factual basis for the plea.

<sup>2</sup> All further statutory references are to the Penal Code unless otherwise indicated.

admitted violating her probation in two separate cases. In return, the remaining count was dismissed, defendant was sentenced to two years imprisonment, and received concurrent time for her probation violations.<sup>3</sup> In addition, she was required to make full restitution to all victims of the fire in an amount to be determined at a later hearing.<sup>4</sup>

A restitution memorandum prepared on January 23, 2009, noted that victim Esteban F. claimed total damages of \$8,519.45 for personal and property damage caused by the fire. Two reimbursement checks from the victim's insurance were attached to the memorandum in the separate amounts of \$7,279.63 for damage to real property and \$1,239.82 for personal property. The probation officer who compiled the memorandum noted that he had made contact with Maria P. who informed him that "two of her grandfather's properties were completely destroyed due to the offense."<sup>5</sup> However, due to personal responsibilities, including caring for her grandfather, she had been unable to complete the necessary paperwork to seek restitution.

An additional restitution memorandum prepared on September 22, 2009, reiterated the amounts of restitution sought by victim Esteban F. In addition, he attached a list of

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<sup>3</sup> The court awarded defendant custody credits totaling 295 days. The plea agreement additionally provided that defendant would be entitled to accrue half-time custody credits while incarcerated.

<sup>4</sup> At her plea hearing, defendant asked how much in victim restitution she would be ordered to pay. The court replied that the amount would be determined at a future hearing, but "[r]ealistically, it will be a large number."

<sup>5</sup> The record does not specifically indicate that Maria P. was the *landlord's* granddaughter; however, that is the logical inference from the reference to two properties having been destroyed.

the objects of personal property lost in the fire and their replacement costs. However, the other victim had still been unable to complete the paperwork required for restitution.

At the restitution hearing on October 19, 2009, the court noted that it had documentation from Rosario M. supporting the requested amount of \$38,000 in restitution.<sup>6</sup> Defense counsel initially contested the amount of restitution requested based on defendant's inability to pay, but abandoned that contention when informed by the court that inability to pay is not a proper basis for consideration when ordering victim restitution. Defendant then sought to contest the portion of restitution seeking \$5,000 in recompense for damage to Esteban F.'s 1972 Midget. Defense counsel contended the vehicle was overvalued because it was over 30 years old and was not in working condition at the time of the fire. The court noted, however, that "it's a classic car" and "still has value whether it was running or not." Defendant then testified that she never saw her neighbor's 1972 Midget because it was always parked in the garage; her neighbors had been working on restoring the vehicle for over eight years. She testified she knew it was not in working condition because she had never witnessed her neighbors driving it.

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<sup>6</sup> This "documentation" is not part of the record on appeal. Similarly, the record does not precisely indicate how Rosario M. was victimized by defendant's actions. Nonetheless, it is logical to conclude that she was the owner of the neighboring house, which the arson investigator estimated sustained \$20,000 in damages. The landlord or his granddaughter had still, apparently, been unable to complete the appropriate paperwork for restitution.

The court, finding no “reason to disbelieve the amounts claimed by the victims in this case,” ordered restitution in the amounts of \$8,519.85 to Esteban F. and \$38,030.23 to Rosario M. The court ordered defendant to make payments of \$40 per month.

### **DISCUSSION**

After defendant appealed, and upon her request, this court appointed counsel to represent her. Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436, and *Anders v. California* (1967) 386 U.S. 738 setting forth a statement of the case, a summary of the facts, a potential arguable issue, and requesting this court to undertake a review of the entire record.

We offered defendant an opportunity to file a personal supplemental brief, but she has not done so. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have conducted an independent review of the record and find no arguable issues.

### **DISPOSITION**

The judgment is affirmed.

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/s/ MILLER

J.

We concur:

/s/ RAMIREZ

P. J.

/s/ McKINSTER

J.